

JOURNAL OF THE HOUSE.

Thursday, November 17, 2005.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Gracious God, in evaluating the accomplishments of this legislative session, we are grateful for Your assistance and Your gift of wisdom. Your guidance also helps us in preparing our priorities and goals for next year. Inspire us in this age of change and of information to consider carefully the merits and consequences of our legislative and personal choices and decisions. Teach us to be open to the experiences and insights of others as we think through our, often limited, options. Help us to work together in our diverse and changing communities to strengthen our basic institutions, our families and family structure, our education and job opportunities and our human and spiritual values.

Prayer.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Representatives LeDuc of Marlborough, Sannicandro of Ashland, Blumer of Framingham and Walrath of Stow) congratulating Ronald D. Young;

Ronald D.
Young.

Resolutions (filed by Representatives Smizik of Brookline, Balser of Newton and Khan of Newton) commemorating the celebration of Hanukkah; and

Hanukkah.

Resolutions (filed by Representatives St. Fleur of Boston and Forry of Boston) honoring Florence Hagins on her retirement;

Florence
Hagins.

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Bosley of North Adams, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petition.

Mr. Cabral of New Bedford presented a petition (subject to Joint Rule 12) of Antonio F. D. Cabral and William M. Straus relative to transition costs calculation of certain generating facilities in the

Electric
companies,
divestiture.

Electric
companies,
divestiture.

divestiture of electric companies; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Cabral, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Telecommunications, Utilities and Energy. Sent to the Senate for concurrence.

Papers from the Senate.

Helen
Bergman,
auto sales
tax.

The engrossed Bill authorizing the refund of automobile sales tax to Helen Bergman of the town of Wilmington (see House, No. 2313) came from the Senate with an amendment adding at the end thereof the following section:

“SECTION 2. Notwithstanding any general or special law to the contrary, the inspector general is appointed as trustee to receive proceeds of a rebate relative to sewer constructions, and disburse them to certain citizens and entities located in the city of Gloucester, not to exceed the amount of \$350,000. Quarterly reports shall be filed with the house and senate committees on ways and means until such funds have been disbursed in full.”

Under suspension of Rule 35, on motion of Mr. deMacedo of Plymouth, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Senior
tax relief.

The House Bill providing senior tax relief (House, No. 2511) (its title having been changed by the Senate committee on Bills in the Third Reading) came from the Senate passed to be engrossed, in concurrence, with an amendment inserting after the enacting clause the following section:

“SECTION 1. Section 5 of chapter 59 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word ‘answer’, in line 1001, the following words:— or such lesser rate as may be determined by the legislative body of the city or town, subject to its charter, no later than the beginning of the fiscal year to which the tax relates.”

Under suspension of Rule 35, on motion of Mr. Jones of North Reading, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Reports of Committees.

Substance
use,
study.

By Ms. Balser of Newton, for the committee on Mental Health and Substance Abuse, on Senate, No. 76 and House, No. 2846, an Order relative to authorizing the committee on Mental Health and Substance Abuse to make an investigation and study of certain Senate and House documents concerning mental health and substance abuse issues (House, No. 4513).

By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, on House, Nos. 3476 and 3482, an Order relative to authorizing the committee on State Administration and Oversight to make an investigation and study of certain House documents concerning parking fees and accommodations for the disabled (House, No. 4514).

Disabled
accommoda-
tions,
study.

By Mr. Wagner of Chicopee, for the committee on Transportation, on Senate, No. 1963 and House, Nos. 2058, 2059, 2099 and 2136, an Order relative to authorizing the committee on Transportation to make an investigation and study of certain Senate and House documents concerning highway construction, tolls and public transit (House, No. 4515).

Transportation,
study.

Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Subsequently Mr. Scaccia of Boston, for said committees, reported asking to be discharged from further consideration of said order; and recommending that the same be referred to the House committee on Rules.

Under Rule 42, the report was considered forthwith; and it was accepted.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to licensure of court reporters (House, No. 3446) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4505). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Court
reporters,
licensure.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Jones of North Reading, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. The bill (House, No. 4505) then was sent to the Senate for concurrence.

Recess.

At twenty-eight minutes after eleven o'clock A.M., on motion of Mr. Kafka of Stoughton (Mr. Donato of Medford being in the Chair), the House recessed until twelve o'clock noon; and at four minutes before one o'clock P.M., the House was called to order with Mr. Donato in the Chair.

Recess.

Engrossed Bills.

Engrossed bills
Relative to organ and tissue donations (see Senate, No. 2236, amended);

Bills
enacted.

Bills

enacted.

Relative to smart growth zoning and housing production (see Senate, No. 2237, amended);

Authorizing the town of Webster to grant an additional license for the sale of alcoholic beverages to be drunk on the premises (see Senate, No. 2274);

(Which severally originated in the Senate);

Authorizing the refund of automobile sales tax to Helen Bergman of the town of Wilmington (see House, No. 2313, amended); and

Authorizing the town of Fairhaven to grant an additional license for the sale of wines and malt beverages to be drunk on the premises (see House, No. 4427);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Recess.

Recess.

At eleven minutes after one o'clock P.M., on motion of Mr. Straus of Mattapoisett (Mr. Donato of Medford being in the Chair), the House recessed until half past one o'clock; and at twenty-four minutes after two o'clock the House was called to order with Mr. Donato in the Chair.

Paper from the Senate.

Wine
shipments.

The House Bill relative to direct wine shipments (House, No. 4498) came from the Senate passed to be engrossed, in concurrence, with certain amendments in section 9 (as printed), in lines 6 and 15, striking out the figures "50,000" and inserting in place thereof, in each instance, the figures "25,000", in line 21, inserting after the figures "14" the following: "; provided, that all direct deliveries from a winery to a section 15 licensee shall not exceed 10 cases of wine monthly", in line 29, inserting after the figures "30" the following: "; provided, however, that nothing in this subsection shall abrogate the rights of section 18 licensees under section 25E", in lines 59 and 60, striking out the paragraph contained therein (as changed by the Senate committee on Bills in the Third Reading) and inserting in place thereof the following paragraph:

"(i) for a first violation, by a fine of \$100.", in lines 64 to 69, inclusive, striking out the paragraph contained therein and inserting in place thereof the following paragraph:

"(iii) For a third violation, by a suspension of the winery's direct shipment license for not more than 2 years, by a fine of \$5,000, or both; and", in line 82, striking out the word " , transports", and in line 84, inserting after the following: "93A" the words "; provided, however, that a common carrier acting in the ordinary course of business shall be exempt from this subsection"; and in section 12 (as printed) by adding at the end thereof the following sentence: "Notwithstanding the foregoing, a delivery company may use an electronic device to receive the signature of a person accepting delivery of a parcel under this section and to certify that the person has displayed a valid identification as so required."

Under suspension of Rule 35, on motion of Mr. Pedone of Worcester, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith.

At the request of the same member, the amendments were divided.

Mr. Pedone of Worcester then moved that the House concur with the Senate in the first amendment, in section 9 (as printed), in line 6, with a further amendment by striking out the following “25,000 gallons of wine or more” and inserting in place thereof the following: “30,000 gallons of wine or more; provided, however, any wine or wine product fermented from other than grapes shall not be included in the aforementioned 30,000 gallon figure”.

The further amendment was adopted.

The House then concurred with the Senate in its first amendment, as amended.

The same member then moved that the House concur with the Senate in the second amendment, in section 9 (as printed), in line 15, with a further amendment by striking out the following: “25,000 gallons of wine” and inserting in place thereof the following: “30,000 gallons of wine; provided, however, any wine or wine product fermented from other than grapes shall not be included in the aforementioned 30,000 gallon figure”.

The further amendment was adopted.

The House then concurred with the Senate in its second amendment, as amended.

Mr. Pedone then moved that the House concur with the Senate in the third amendment, in section 9 (as printed), in line 21, by striking out the following: “10 cases of wine monthly” and inserting in place thereof the following: “250 cases of wine annually”.

The further amendment was adopted.

The House then concurred with the Senate in its third amendment, as amended.

The House non-concurred with the Senate in the fourth amendment, in section 9 (as printed), in line 29.

The House then concurred with the Senate in the fifth amendment, in section 9 (as printed), in lines 59 and 60.

Mr. Pedone then moved that the House concur with the Senate in the sixth amendment, in section 9 (as printed), in lines 64 to 69, inclusive, by striking out the paragraph inserted by said branch and inserting in place thereof the following paragraph:

“(iii) A third violation of this section may be punished by the prohibition of the winery from making any shipments of wine under this section or through a wholesaler or importer under section 18, be fined up to \$5,000, or both; provided, however, that after 1 year the winery may apply for the authority to ship wine through a wholesaler or importer under section 18.”.

The further amendment was adopted.

The House then concurred with the Senate in its sixth amendment, as amended.

The House non-concurred with the Senate in the seventh amendment, in section 9 (as printed), in line 82.

shipments.

The House then concurred with the Senate in the eighth amendment, in section 9 (as printed), in line 84.

The House then concurred with the Senate in the ninth amendment, in section 12 (as printed), in line 16.

The bill (House, No. 4498, amended) then was sent to the Senate for its action.

Emergency Measures.

Senior
tax relief.

The engrossed Bill providing senior tax relief (see House, No. 2511, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 4 to 0. Sent to the Senate for concurrence.

Bill
enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Heating
energy
assistance.

The engrossed Bill relative to heating energy assistance and tax relief (see House, No. 4473), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 4 to 0. Sent to the Senate for concurrence.

Bill
enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Recess.

Recess.

At ten minutes before three o'clock P.M., on motion of Mr. Jones of North Reading (Mr. Donato of Medford being in the Chair), the House recessed until half past three o'clock; and at ten minutes before four o'clock P.M., the House was called to order with Mr. Donato in the Chair.

Emergency Measure.

Wine
shipments.

The engrossed Bill relative to direct wine shipments (see House, No. 4498, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 4 to 0. Sent to the Senate for concurrence.

Bill

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate. enacted.

Motion to Discharge a Certain Matter in the Orders of the Day.

Mr. Cabral of New Bedford moved that the Bill establishing a revolving fund in the town of Sudbury (House, No. 4389, changed), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed. Sudbury, revolving fund.

The bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M. Next sitting.

At twenty-two minutes before six o'clock P.M., on motion of Mr. deMacedo of Plymouth (Mr. Donato of Medford being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.